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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA  
THIRD APPELLATE DISTRICT  
(El Dorado)

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RODNEY E. KEIM,

Plaintiff and Appellant,

v.

YVONNE WREN, as Trustee, etc.,

Defendant and Respondent.

C085578

(Super. Ct. No. PP20150156)

Appellant Rodney E. Keim appeals the probate court's order denying his petition requesting an accounting of the Rodney E. Keim Trust. Appellant's opening brief does not raise any claim of error in the probate court's ruling or present any legal argument. We dismiss the appeal.

BACKGROUND

Rodney Keim is serving a life sentence at California Medical Facility in Vacaville, California. His parents, Dewey and Blanche Keim, established the Keim Family Trust

dated September 22, 1989, and restated on May 15, 1995 (the Family Trust). When they died, their daughter, Yvonne Wren (respondent), became trustee. The Family Trust directed that the trust estate was to be divided equally between the elder Keim's three children, and that Rodney Keim's share be held, distributed, and administered as a separate, irrevocable subtrust, known as the Rodney E. Keim Trust. The Family Trust directed that the Rodney E. Keim Trust be administered by Wren, with the trustee's distribution decisions discretionary, final, and incontestable. It also provided the trustee was not required "to render periodic accounts to any person, but shall render accounts at the termination of a trust and on a change of trustees, to the persons and in the manner required by law."

The Rodney E. Keim Trust was funded in 2013. In 2015, Wren petitioned to modify the trust to appoint a successor trustee should she be unable to continue to serve as trustee, and to provide a mechanism by which additional successor trustees could be nominated. The probate court granted the petition.

In June 2016, Rodney Keim filed a petition for compliance and trust disclosure which was not properly served. On January 12, 2017, he filed an amended petition for compliance and trust disclosure, alleging Wren had violated various fiduciary duties. Rodney Keim requested the probate court: 1) declare the rights of the parties, 2) order Wren to disclose the terms of the trust; and 3) make him whole regarding any losses caused by her breach of fiduciary duties.

Rodney Keim filed a third petition for compliance and trust disclosure on January 19, 2017, raising essentially the same allegations and requests for relief as the January 12, 2017, petition. The probate court found the terms of the trust had been provided to him when Wren petitioned to modify the trust and found no breach of trust had occurred. The probate court also ordered Wren to file an accounting with the court along with objections as to why she believed Rodney Keim was not entitled to a copy of the accounting.

Rodney Keim again filed the third petition for compliance and trust disclosure in March 2017. It appears this is the same document previously filed on January 19, 2017. He again alleged Wren had breached a variety of her fiduciary duties as trustee, including a duty to keep him informed of the trust and its administration, failed to distribute dividend income to him as beneficiary, failed to administer the trust for his benefit, liquidated trust investments in 2013, and made the trust irrevocable. He again requested the probate court declare the rights of the parties, order disclosure of the terms and administration of the trust, and to make him “whole” with respect to the alleged violations of Wren’s fiduciary duties as trustee.

After a hearing on July 12, 2017, the probate court reiterated its earlier finding that there was no breach of trust. The probate court also found that paragraph 7.23 of the trust “waives the accounting requirement, except for accounts at the termination of the trust, change of trustees, or to persons and in the manner required by law.” The probate court ruled, absent proof of any statutory exceptions, Wren was not required by law or the trust instrument to report information or provide an accounting to Rodney Keim. The probate court also found none of the events triggering a requirement to account specified in paragraph 7.23 had occurred. Accordingly, the probate court denied Rodney Keim’s petition.

## DISCUSSION

“ ‘A judgment or order of the lower court is *presumed correct*. All intendments and presumptions are indulged to support it on matters as to which the record is silent, and error must be affirmatively shown. This is not only a general principle of appellate practice but an ingredient of the constitutional doctrine of reversible error.’ ” (*Denham v. Superior Court* (1970) 2 Cal.3d 557, 564.) Thus, in challenging a judgment, the appellant must raise claims of reversible error or other defect, and “present argument and authority on each point made.” (*County of Sacramento v. Lackner* (1979) 97 Cal.App.3d 576, 591; accord, *In re Marriage of Ananeh–Firemping* (1990) 219 Cal.App.3d 272,

278.) “[F]ailure of an appellant in a civil action to articulate any pertinent or intelligible legal argument in an opening brief may, in the discretion of the court, be deemed an abandonment of the appeal justifying dismissal.” (*Berger v. Godden* (1985) 163 Cal.App.3d 1113, 1119.)

Based on the opening brief, we must dismiss this appeal. Rodney Keim has not met his burden on appeal. He has not raised any claim of error by the probate court. He provides citations to the record and legal authority but offers no legal argument compelling reversal. The opening brief sets forth the same claims previously rejected by the probate court that he was entitled to an accounting by Wren, that Wren violated various fiduciary duties, failed to appropriately distribute dividend income to him, failed to administer the trust for his benefit, and improperly liquidated trust assets. These are not cognizable legal claims that the probate court erred in denying Rodney Keim’s petition or issues we reconsider on appeal. “Appellate courts ‘do not reweigh evidence or reassess the credibility of witnesses. [Citation.]’ [Citation.] Put another way, ‘[t]he Court of Appeal is not a second trier of fact . . . .’ ” (*In re Marriage of Balcof* (2006) 141 Cal.App.4th 1509, 1531.)

As an appellate court, we review the actions of the probate court for error. (*Uriarte v. United States Pipe & Foundry Co.* (1996) 51 Cal.App.4th 780, 791.) Rodney Keim ignores the probate court’s rulings that there was no breach of duty and that the terms of the trust do not require Wren to provide an accounting. He makes no argument the probate court erred in its ruling, or on what basis, or that the error was reversible. (See *Sprague v. Equifax, Inc.* (1985) 166 Cal.App.3d 1012, 1050.) Since the issues as raised in his opening brief are not properly presented or sufficiently developed to be cognizable, we decline to consider them and treat them as forfeited. (*People v. Stanley* (1995) 10 Cal.4th 764, 793.) Accordingly, we dismiss the appeal.

## DISPOSITION

The appeal is dismissed. Respondent Wren is to recover costs on appeal.  
(Cal. Rules of Court, rule 8.278(a)(2) & (a)(4).)

/s/  
Robie, J.

We concur:

/s/  
Blease, Acting P. J.

/s/  
Mauro, J.